

son of a mere change in the form of conducting the trade or business so long as the land is retained in such trade or business and the person holding the land before such change retains a direct or indirect 80-percent interest in such land.

“(4) TREATMENT OF CERTAIN ACQUISITIONS OF RIGHT TO THE CROP.—The acquisition of a direct or indirect interest in 80 percent or more of the crop from any land shall be treated as an acquisition of such land.

“SEC. 5. DEFINITIONS AND SPECIAL RULES.

“(a) GENERAL RULE.—For purposes of this Act—

“(1) 1983 PAYMENT-IN-KIND PROGRAM.—The term ‘1983 payment-in-kind program’ means any program for the 1983 crop year—

“(A) under which the Secretary of Agriculture (or his delegate) makes payments in kind of any agricultural commodity to any person in return for—

“(i) the diversion of farm acreage from the production of an agricultural commodity, and

“(ii) the devotion of such acreage to conservation uses, and

“(B) which the Secretary of Agriculture certifies to the Secretary of the Treasury as being described in subparagraph (A).

“(2) CROP YEAR.—The term ‘1983 crop year’ means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term ‘1984 crop year’ means the crop year for wheat the planting and harvesting period for which occurs during 1984.

“(3) QUALIFIED TAXPAYER.—The term ‘qualified taxpayer’ means any producer of agricultural commodities (within the meaning of the 1983 payment-in-kind programs) who receives any agricultural commodity in return for meeting the requirements of clauses (i) and (ii) of paragraph (1)(A).

“(4) RECEIPT INCLUDES RIGHT TO RECEIVE, ETC.—A right to receive (or other constructive receipt of) a commodity shall be treated the same as actual receipt of such commodity.

“(5) AMOUNTS RECEIVED BY THE TAXPAYER AS REIMBURSEMENT FOR STORAGE.—A qualified taxpayer reporting on the cash receipts and disbursements method of accounting shall not be treated as being entitled to receive any amount as reimbursement for storage of commodities received under a 1983 payment-in-kind program until such amount is actually received by the taxpayer.

“(6) COMMODITY CREDIT LOANS TREATED SEPARATELY.—Subsection (a) of section 2 shall apply to the receipt of any commodity under a 1983 payment-in-kind program separately from, and without taking into account, any related transaction or series of transactions involving the satisfaction of loans from the Commodity Credit Corporation.

“(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

“(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

“(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1).

“(c) REGULATIONS.—The Secretary of the Treasury or his delegate (after consultation with the Secretary of Agriculture) shall prescribe such regulations as may be necessary to carry out the purposes of this Act, including (but not limited to) such regulations as may be necessary to carry out the purposes of this Act where the commodity is received by a cooperative on behalf of the qualified taxpayer.”

[Section 1061(b) of Pub. L. 98-369 provided that: “The amendments made by this section [amending Pub. L. 98-4 set out above] shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 [Pub. L. 98-4, set out above] as amended by subsection (a).”]

CANCELLATION OF CERTAIN STUDENT LOANS

Pub. L. 94-455, title XXI, §2117, Oct. 4, 1976, 90 Stat. 1911, as amended by Pub. L. 95-600, title I, §162, Nov. 6,

1978, 92 Stat. 2810; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that no amount be included in gross income of an individual for purposes of 26 U.S.C. 61 by reason of the discharge made before Jan. 1, 1983 of the indebtedness of the individual under a student loan if the discharge was pursuant to a provision of the loan under which the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

REGULATIONS RELATING TO TAX TREATMENT OF CERTAIN PREPUBLICATION EXPENDITURES OF PUBLISHERS

Pub. L. 94-455, title XXI, §2119, Oct. 4, 1976, 90 Stat. 1912, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—With respect to taxable years beginning on or before the date on which regulations dealing with prepublication expenditures are issued after the date of the enactment of this Act [Oct. 4, 1976], the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] to any prepublication expenditure shall be administered—

“(1) without regard to Revenue Ruling 73-395, and

“(2) in the manner in which such sections were applied consistently by the taxpayer to such expenditures before the date of the issuance of such revenue ruling.

“(b) REGULATIONS TO BE PROSPECTIVE ONLY.—Any regulations issued after the date of the enactment of this Act [Oct. 4, 1976] which deal with the application of sections 61 (as it relates to cost of goods sold), 162, 174, 263, and 471 of the Internal Revenue Code of 1986 to prepublication expenditures shall apply only with respect to taxable years beginning after the date on which such regulations are issued.

“(c) PREPUBLICATION EXPENDITURES DEFINED.—For purposes of this section, the term ‘prepublication expenditures’ means expenditures paid or incurred by the taxpayer (in connection with his trade or business of publishing) for the writing, editing, compiling, illustrating, designing, or other development or improvement of a book, teaching aid, or similar product.”

REIMBURSEMENT OF MOVING EXPENSES OF EMPLOYEES OF CERTAIN CORPORATIONS EXCLUDED FROM GROSS INCOME; CLAIM FOR REFUND OR CREDIT; LIMITATIONS; INTEREST

Pub. L. 86-780, §5, Sept. 14, 1960, 74 Stat. 1013, provided for the exclusion from gross income of any amount received after Dec. 31, 1949, and before Oct. 1, 1955, by employees of certain corporations as reimbursement for moving expenses, and the refund or credit of any overpayments.

§ 62. Adjusted gross income defined

(a) General rule

For purposes of this subtitle, the term “adjusted gross income” means, in the case of an individual, gross income minus the following deductions:

(1) Trade and business deductions

The deductions allowed by this chapter (other than by part VII of this subchapter) which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee.

(2) Certain trade and business deductions of employees

(A) Reimbursed expenses of employees

The deductions allowed by part VI (section 161 and following) which consist of expenses

paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer. The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies.

**(B) Certain expenses of performing artists**

The deductions allowed by section 162 which consist of expenses paid or incurred by a qualified performing artist in connection with the performances by him of services in the performing arts as an employee.

**(C) Certain expenses of officials**

The deductions allowed by section 162 which consist of expenses paid or incurred with respect to services performed by an official as an employee of a State or a political subdivision thereof in a position compensated in whole or in part on a fee basis.

**(D) Certain expenses of elementary and secondary school teachers**

In the case of taxable years beginning during 2002, 2003, 2004, 2005, 2006, 2007, 2008, or 2009, the deductions allowed by section 162 which consist of expenses, not in excess of \$250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.

**(E) Certain expenses of members of reserve components of the Armed Forces of the United States**

The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.

**(3) Losses from sale or exchange of property**

The deductions allowed by part VI (sec. 161 and following) as losses from the sale or exchange of property.

**(4) Deductions attributable to rents and royalties**

The deductions allowed by part VI (sec. 161 and following), by section 212 (relating to expenses for production of income), and by section 611 (relating to depletion) which are attributable to property held for the production of rents or royalties.

**(5) Certain deductions of life tenants and income beneficiaries of property**

In the case of a life tenant of property, or an income beneficiary of property held in trust,

or an heir, legatee, or devisee of an estate, the deduction for depreciation allowed by section 167 and the deduction allowed by section 611.

**(6) Pension, profit-sharing, and annuity plans of self-employed individuals**

In the case of an individual who is an employee within the meaning of section 401(c)(1), the deduction allowed by section 404.

**(7) Retirement savings**

The deduction allowed by section 219 (relating to deduction of certain retirement savings).

**[(8) Repealed. Pub. L. 104-188, title I, § 1401(b)(4), Aug. 20, 1996, 110 Stat. 1788]**

**(9) Penalties forfeited because of premature withdrawal of funds from time savings accounts or deposits**

The deductions allowed by section 165 for losses incurred in any transaction entered into for profit, though not connected with a trade or business, to the extent that such losses include amounts forfeited to a bank, mutual savings bank, savings and loan association, building and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit, or similar class of deposit.

**(10) Alimony**

The deduction allowed by section 215.

**(11) Reforestation expenses**

The deduction allowed by section 194.

**(12) Certain required repayments of supplemental unemployment compensation benefits**

The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292).

**(13) Jury duty pay remitted to employer**

Any deduction allowable under this chapter by reason of an individual remitting any portion of any jury pay to such individual's employer in exchange for payment by the employer of compensation for the period such individual was performing jury duty. For purposes of the preceding sentence, the term "jury pay" means any payment received by the individual for the discharge of jury duty.

**(14) Deduction for clean-fuel vehicles and certain refueling property**

The deduction allowed by section 179A.

**(15) Moving expenses**

The deduction allowed by section 217.

**(16) Archer MSAs**

The deduction allowed by section 220.

**(17) Interest on education loans**

The deduction allowed by section 221.

**(18) Higher education expenses**

The deduction allowed by section 222.

**(19) Health savings accounts**

The deduction allowed by section 223.

**(20) Costs involving discrimination suits, etc.**

Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination (as defined in subsection (e)) or a claim of a violation of subchapter III of chapter 37 of title 31, United States Code<sup>1</sup> or a claim made under section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of a judgment or settlement (whether by suit or agreement and whether as lump sum or periodic payments) resulting from such claim.

**(21) Attorneys fees relating to awards to whistleblowers**

Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.

Nothing in this section shall permit the same item to be deducted more than once.

**(b) Qualified performing artist****(1) In general**

For purposes of subsection (a)(2)(B), the term "qualified performing artist" means, with respect to any taxable year, any individual if—

(A) such individual performed services in the performing arts as an employee during the taxable year for at least 2 employers,

(B) the aggregate amount allowable as a deduction under section 162 in connection with the performance of such services exceeds 10 percent of such individual's gross income attributable to the performance of such services, and

(C) the adjusted gross income of such individual for the taxable year (determined without regard to subsection (a)(2)(B)) does not exceed \$16,000.

**(2) Nominal employer not taken into account**

An individual shall not be treated as performing services in the performing arts as an employee for any employer during any taxable year unless the amount received by such individual from such employer for the performance of such services during the taxable year equals or exceeds \$200.

**(3) Special rules for married couples****(A) In general**

Except in the case of a husband and wife who lived apart at all times during the taxable year, if the taxpayer is married at the

close of the taxable year, subsection (a)(2)(B) shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

**(B) Application of paragraph (1)**

In the case of a joint return—

(i) paragraph (1) (other than subparagraph (C) thereof) shall be applied separately with respect to each spouse, but

(ii) paragraph (1)(C) shall be applied with respect to their combined adjusted gross income.

**(C) Determination of marital status**

For purposes of this subsection, marital status shall be determined under section 7703(a).

**(D) Joint return**

For purposes of this subsection, the term "joint return" means the joint return of a husband and wife made under section 6013.

**(c) Certain arrangements not treated as reimbursement arrangements**

For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if—

(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof.

**(d) Definition; special rules****(1) Eligible educator****(A) In general**

For purposes of subsection (a)(2)(D), the term "eligible educator" means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

**(B) School**

The term "school" means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

**(2) Coordination with exclusions**

A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.

**(e) Unlawful discrimination defined**

For purposes of subsection (a)(20), the term "unlawful discrimination" means an act that is unlawful under any of the following:

<sup>1</sup> So in original. Probably should be followed by a comma.

(1) Section 302 of the Civil Rights Act of 1991 (2 U.S.C. 1202).<sup>2</sup>

(2) Section 201, 202, 203, 204, 205, 206, or 207 of the Congressional Accountability Act of 1995 (2 U.S.C. 1311, 1312, 1313, 1314, 1315, 1316, or 1317).

(3) The National Labor Relations Act (29 U.S.C. 151 et seq.).

(4) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(5) Section 4 or 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623 or 633a).

(6) Section 501 or 504 of the Rehabilitation Act of 1973 (29 U.S.C. 791 or 794).

(7) Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140).

(8) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(9) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(10) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102 et seq.).

(11) Section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615).

(12) Chapter 43 of title 38, United States Code (relating to employment and reemployment rights of members of the uniformed services).

(13) Section 1977, 1979, or 1980 of the Revised Statutes (42 U.S.C. 1981, 1983, or 1985).

(14) Section 703, 704, or 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, or 2000e-16).

(15) Section 804, 805, 806, 808, or 818 of the Fair Housing Act (42 U.S.C. 3604, 3605, 3606, 3608, or 3617).

(16) Section 102, 202, 302, or 503 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112, 12132, 12182, or 12203).

(17) Any provision of Federal law (popularly known as whistleblower protection provisions) prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted under Federal law.

(18) Any provision of Federal, State, or local law, or common law claims permitted under Federal, State, or local law—

(i) providing for the enforcement of civil rights, or

(ii) regulating any aspect of the employment relationship, including claims for wages, compensation, or benefits, or prohibiting the discharge of an employee, the discrimination against an employee, or any other form of retaliation or reprisal against an employee for asserting rights or taking other actions permitted by law.

(Aug. 16, 1954, ch. 736, 68A Stat. 17; Pub. L. 87-792, §7(b), Oct. 10, 1962, 76 Stat. 828; Pub. L. 88-272, title II, §213(b), Feb. 26, 1964, 78 Stat. 52; Pub. L. 91-172, title V, §531(b), Dec. 30, 1969, 83 Stat. 655; Pub. L. 93-406, title II, §§2002(a)(2), 2005(c)(9), Sept. 2, 1974, 88 Stat. 959, 992; Pub. L. 93-483, §6(a), Oct. 26, 1974, 88 Stat. 1458; Pub. L. 94-455, title V, §502(a), title XV, §1501(b)(1), title XIX, §1901(a)(8), (9), Oct. 4, 1976, 90 Stat. 1559, 1735,

1765; Pub. L. 95-615, §203(b), Nov. 8, 1978, 92 Stat. 3106; Pub. L. 96-451, title III, §301(b), Oct. 14, 1980, 94 Stat. 1990; Pub. L. 96-608, §3(a), Dec. 28, 1980, 94 Stat. 3551; Pub. L. 97-34, title I, §§103(b), 112(b)(2), title III, §311(h)(1), Aug. 13, 1981, 95 Stat. 187, 195, 282; Pub. L. 97-354, §5(a)(17), Oct. 19, 1982, 96 Stat. 1693; Pub. L. 98-369, div. A, title IV, §491(d)(2), July 18, 1984, 98 Stat. 849; Pub. L. 99-514, title I, §§131(b)(1), 132(b), (c), title III, §301(b)(1), title XVIII, §1875(c)(3), Oct. 22, 1986, 100 Stat. 2113, 2115, 2116, 2217, 2894; Pub. L. 100-485, title VII, §702(a), Oct. 13, 1988, 102 Stat. 2426; Pub. L. 100-647, title I, §1001(b)(3)(A), title VI, §6007(b), Nov. 10, 1988, 102 Stat. 3349, 3687; Pub. L. 101-508, title XI, §11802(e)(1), Nov. 5, 1990, 104 Stat. 1388-530; Pub. L. 102-318, title V, §521(b)(2), July 3, 1992, 106 Stat. 310; Pub. L. 102-486, title XIX, §1913(a)(2), Oct. 24, 1992, 106 Stat. 3019; Pub. L. 103-66, title XIII, §13213(c)(1), Aug. 10, 1993, 107 Stat. 474; Pub. L. 104-188, title I, §1401(b)(4), Aug. 20, 1996, 110 Stat. 1788; Pub. L. 104-191, title III, §301(b), Aug. 21, 1996, 110 Stat. 2048; Pub. L. 105-34, title II, §202(b), title IX, §975(a), Aug. 5, 1997, 111 Stat. 808, 898; Pub. L. 106-554, §1(a)(7) [title II, §202(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-629; Pub. L. 107-16, title IV, §431(b), June 7, 2001, 115 Stat. 68; Pub. L. 107-147, title IV, §406(a), (b), Mar. 9, 2002, 116 Stat. 43; Pub. L. 108-121, title I, §109(b), Nov. 11, 2003, 117 Stat. 1341; Pub. L. 108-173, title XII, §1201(b), Dec. 8, 2003, 117 Stat. 2476; Pub. L. 108-311, title III, §307(a), Oct. 4, 2004, 118 Stat. 1179; Pub. L. 108-357, title VII, §703(a), (b), Oct. 22, 2004, 118 Stat. 1546, 1547; Pub. L. 109-135, title IV, §412(q), Dec. 21, 2005, 119 Stat. 2638; Pub. L. 109-432, div. A, title I, §108(a), title IV, §406(a)(3), Dec. 20, 2006, 120 Stat. 2939, 2959; Pub. L. 110-343, div. C, title II, §203(a), Oct. 3, 2008, 122 Stat. 3864.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.*

#### REFERENCES IN TEXT

Section 302 of the Civil Rights Act of 1991, referred to in subsec. (e)(1), was formerly classified to section 1202 of Title 2, The Congress, and was transferred to section 2000e-16b of Title 42, The Public Health and Welfare.

The National Labor Relations Act, referred to in subsec. (e)(3), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (e)(4), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Education Amendments of 1972, referred to in subsec. (e)(8), is Pub. L. 92-318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Employee Polygraph Protection Act of 1988, referred to in subsec. (e)(9), is Pub. L. 100-347, June 27, 1988, 102 Stat. 646, as amended, which is classified generally to chapter 22 (§2001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see

<sup>2</sup> See References in Text note below.

Short Title note set out under section 2001 of Title 29 and Tables.

The Worker Adjustment and Retraining Notification Act, referred to in subsec. (e)(10), is Pub. L. 100-379, Aug. 4, 1988, 102 Stat. 890, as amended, which is classified generally to chapter 23 (§2101 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 29 and Tables.

#### AMENDMENTS

2008—Subsec. (a)(2)(D). Pub. L. 110-343 substituted “2007, 2008, or 2009” for “or 2007”.

2006—Subsec. (a)(2)(D). Pub. L. 109-432, §108(a), substituted “2005, 2006, or 2007” for “or 2005”.

Subsec. (a)(21). Pub. L. 109-432, §406(a)(3), added par. (21).

2005—Subsec. (a)(19), (20). Pub. L. 109-135, §412(q)(1), redesignated par. (19) relating to costs involving discrimination suits, etc., as par. (20) and moved to follow par. (19) relating to health savings accounts.

Subsec. (e). Pub. L. 109-135, §412(q)(2), substituted “subsection (a)(20)” for “subsection (a)(19)” in introductory provisions.

2004—Subsec. (a)(2)(D). Pub. L. 108-311 substituted “, 2003, 2004, or 2005” for “or 2003”.

Subsec. (a)(19). Pub. L. 108-357, §703(a), added par. (19) relating to costs involving discrimination suits, etc.

Subsec. (e). Pub. L. 108-357, §703(b), added subsec. (e).  
2003—Subsec. (a)(2)(E). Pub. L. 108-121 added subpar. (E).

Subsec. (a)(19). Pub. L. 108-173 added par. (19).

2002—Subsec. (a)(2)(D). Pub. L. 107-147, §406(a), added subpar. (D).

Subsec. (d). Pub. L. 107-147, §406(b), added subsec. (d).

2001—Subsec. (a)(18). Pub. L. 107-16, §§431(b), 901, temporarily added par. (18). See Effective and Termination Dates of 2001 Amendment note below.

2000—Subsec. (a)(16). Pub. L. 106-554 amended heading and text of par. (16) generally. Prior to amendment, text read as follows: “The deduction allowed by section 220.”

1997—Subsec. (a)(2)(C). Pub. L. 105-34, §975(a), added subpar. (C).

Subsec. (a)(17). Pub. L. 105-34, §202(b), added par. (17).

1996—Subsec. (a)(8). Pub. L. 104-188 struck out par. (8) which read as follows: “CERTAIN PORTION OF LUMP-SUM DISTRIBUTIONS FROM PENSION PLANS TAXED UNDER SECTION 402(D).—The deduction allowed by section 402(d)(3).”

Subsec. (a)(16). Pub. L. 104-191 added par. (16).

1993—Subsec. (a)(15). Pub. L. 103-66 added par. (15).

1992—Subsec. (a)(8). Pub. L. 102-318 substituted “402(d)” for “402(e)” in heading and in text.

Subsec. (a)(14). Pub. L. 102-486 added par. (14).

1990—Subsec. (a)(13). Pub. L. 101-508, §11802(e)(1), amended par. (13) generally. Prior to amendment, par. (13) read as follows: “The deduction allowed by section 220.”

1988—Subsec. (a)(2)(A). Pub. L. 100-647, §1001(b)(3)(A), inserted at end “The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies.”

Subsec. (a)(13). Pub. L. 100-647, §6007(b), added par. (13).

Subsec. (c). Pub. L. 100-485 added subsec. (c).

1986—Subsec. (a). Pub. L. 99-514, §132(b)(2)(A), designated existing provisions as subsec. (a) and added heading.

Subsec. (a)(2). Pub. L. 99-514, §132(b)(1), amended par. (2) generally, substituting “Certain trade” for “Trade” in heading and inserting “of employees” in subpar. (A) heading, substituting provision relating to deduction of certain expenses of performing artists for provision relating to deduction of expenses for travel away from home in subpar. (B), and striking out subpar. (C) relating to deduction of travel expenses and subpar. (D) relating to deduction of expenses of outside salesmen.

Subsec. (a)(3) to (5). Pub. L. 99-514, §301(b)(1), redesignated pars. (4) to (6) as (3) to (5), respectively, and

struck out former par. (3) which related to long-term capital gains and read as follows: “The deduction allowed by section 1202.”

Subsec. (a)(6). Pub. L. 99-514, §301(b)(1), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Pub. L. 99-514, §1875(c)(3), struck out “to the extent attributable to contributions made on behalf of such individual” after “section 404”.

Subsec. (a)(7). Pub. L. 99-514, §301(b)(1), redesignated par. (10) as (7). Former par. (7) redesignated (6).

Subsec. (a)(8). Pub. L. 99-514, §301(b)(1), redesignated par. (11) as (8). Former par. (8) struck out.

Pub. L. 99-514, §132(c), struck out par. (8) which related to moving expense deduction and read as follows: “The deduction allowed by section 217.”

Subsec. (a)(9) to (15). Pub. L. 99-514, §301(b)(1), redesignated pars. (12) to (15) as (9) to (12), respectively. Former pars. (10) and (11) redesignated (7) and (8), respectively.

Subsec. (a)(16). Pub. L. 99-514, §131(b)(1), struck out par. (16) which related to deduction for two-earner married couples and read as follows: “The deduction allowed by section 221.”

Subsec. (b). Pub. L. 99-514, §132(b)(2)(B), added subsec. (b).

1984—Par. (7). Pub. L. 98-369, §491(d)(2), substituted “and annuity” for “annuity, and bond purchase” in heading, and substituted “the deduction allowed by section 404” for “the deductions allowed by section 404 and section 405(c)” in text.

1983—Par. (9). Pub. L. 97-354 repealed par. (9) relating to the deduction allowed by section 1379(b)(3).

1981—Par. (10). Pub. L. 97-34, §311(h)(1), struck out “and the deduction allowed by section 220 (relating to retirement savings for certain married individuals)” after “retirement savings”.

Par. (14). Pub. L. 97-34, §112(b)(2), redesignated par. (15) as (14). Former par. (14), relating to deduction for certain expenses of living abroad, was struck out.

Par. (15). Pub. L. 97-34, §112(b)(2), redesignated par. (16) as (15). Former par. (15) redesignated (14).

Par. (16). Pub. L. 97-34, §§103(b), 112(b)(2), added par. (16). Former par. (16) redesignated (15).

1980—Par. (15). Pub. L. 96-451 added par. (15).

Par. (16). Pub. L. 96-608 added par. (16).

1978—Par. (14). Pub. L. 95-615 added par. (14).

1976—Par. (10). Pub. L. 94-455, §1501(b)(1), inserted reference to the deduction allowed by section 220 (relating to retirement savings for certain married individuals).

Pars. (11), (12). Pub. L. 94-455, §1901(a)(8), (9), redesignated par. (11) relating to penalties forfeited because of premature withdrawal of funds from time savings accounts or deposits, as par. (12), and substituted “trade or business, to the extent” for “trade or business to the extent”.

Par. (13). Pub. L. 94-455, §502(a), added par. (13).

1974—Par. (10). Pub. L. 93-406, §2002(a)(2), added par. (10).

Par. (11). Pub. L. 93-483 added par. (11) relating to penalties forfeited because of premature withdrawal of funds from time savings accounts or deposits. Another par. (11) relating to certain portions of lump-sum distributions from pension plans taxed under section 402(e) of this title, was added by Pub. L. 93-406, §2005(c)(9).

1969—Par. (9). Pub. L. 91-172 added par. (9).

1964—Par. (8). Pub. L. 88-272 added par. (8).

1962—Par. (7). Pub. L. 87-792 added par. (7).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title II, §203(b), Oct. 3, 2008, 122 Stat. 3864, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 2007.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title I, §108(b), Dec. 20, 2006, 120 Stat. 2939, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2005.”

Pub. L. 109-432, div. A, title IV, §406(d), Dec. 20, 2006, 120 Stat. 2960, provided that: “The amendments made by subsection (a) [amending this section and sections 7443A and 7623 of this title] shall apply to information provided on or after the date of the enactment of this Act [Dec. 20, 2006].”

#### EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108-357, title VII, §703(c), Oct. 22, 2004, 118 Stat. 1548, provided that: “The amendments made by this section [amending this section] shall apply to fees and costs paid after the date of the enactment of this Act [Oct. 22, 2004] with respect to any judgment or settlement occurring after such date.”

Pub. L. 108-311, title III, §307(b), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendment made by subsection (a) [amending this section] shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.”

#### EFFECTIVE DATE OF 2003 AMENDMENTS

Pub. L. 108-173, title XII, §1201(k), Dec. 8, 2003, 117 Stat. 2479, provided that: “The amendments made by this section [enacting sections 223 and 4980G of this title, amending this section and sections 106, 125, 220, 848, 3231, 3306, 3401, 4973, 4975, 6051, and 6693 of this title, and renumbering former section 223 of this title as 224] shall apply to taxable years beginning after December 31, 2003.”

Pub. L. 108-121, title I, §109(c), Nov. 11, 2003, 117 Stat. 1342, provided that: “The amendments made by this section [amending this section and section 162 of this title] shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title IV, §406(c), Mar. 9, 2002, 116 Stat. 44, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 2001.”

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Pub. L. 107-16, title IV, §431(d), June 7, 2001, 115 Stat. 69, provided that: “The amendments made by this section [enacting section 222 of this title, amending this section and sections 86, 135, 137, 219, 221, and 469 of this title, and renumbering former section 222 of this title as 223] shall apply to payments made in taxable years beginning after December 31, 2001.”

Amendment by Pub. L. 107-16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 202(e) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting section 221 of this title, amending this section and section 6050S of this title, and renumbering former section 221 of this title as section 222 of this title] shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act [Aug. 5, 1997], but only with respect to—

“(1) any loan interest payment due and paid after December 31, 1997, and

“(2) the portion of the 60-month period referred to in section 221(d) of the Internal Revenue Code of 1986 (as added by this section) after December 31, 1997.”

Section 975(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall apply to expenses paid or incurred in taxable years beginning after December 31, 1986.”

#### EFFECTIVE DATE OF 1996 AMENDMENTS

Section 301(j) of Pub. L. 104-191 provided that: “The amendments made by this section [enacting sections

220 and 4980E of this title, amending this section and sections 106, 125, 848, 3231, 3306, 3401, 4973, 4975, 6051, and 6693 of this title, and renumbering section 220 of this title as section 221] shall apply to taxable years beginning after December 31, 1996.”

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1999, with retention of certain transition rules, see section 1401(c) of Pub. L. 104-188, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 13213(e) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and sections 67, 82, 132, 217, 1001, 1016, and 4977 of this title] shall apply to expenses incurred after December 31, 1993; except that the amendments made by subsection (d) [amending sections 82, 132, and 4977 of this title] shall apply to reimbursements or other payments in respect of expenses incurred after such date.”

#### EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102-486 applicable to property placed in service after June 30, 1993, see section 1913(c) of Pub. L. 102-486, set out as an Effective Date note under section 30 of this title.

Amendment by Pub. L. 102-318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 1001(b)(3)(A) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Section 6007(d) of Pub. L. 100-647 provided that: “The amendments made by this section [enacting section 220 of this title, amending this section, and renumbering former section 220 of this title as section 221 of this title] shall apply as if included in the amendments made by section 132 of the Tax Reform Act of 1986 [Pub. L. 99-514].”

Section 702(b) of Pub. L. 100-485 provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1988.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 131(b)(1) and 132(b), (c) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Section 301(c) of Pub. L. 99-514 provided that: “The amendments made by this section [amending this section and sections 170, 172, 219, 220, 223, 642, 643, 691, 871, 1211, 1212, and 1402 of this title and repealing section 1202 of this title] shall apply to taxable years beginning after December 31, 1986.”

Section 1875(c)(12) of Pub. L. 99-514 provided that: “The amendments made by paragraphs (3), (4), and (6) [amending this section and sections 219 and 408 of this title] shall take effect as if included in the amendments made by section 238 of the Tax Equity and Fiscal Responsibility Act of 1982 [section 238 of Pub. L. 97-248, see section 241 of Pub. L. 97-248, set out as an Effective Date note under section 416 of this title].”

#### EFFECTIVE DATE OF 1984 AMENDMENT

“Section 491(f)(1) of Pub. L. 98-369 provided that: “The amendments and repeals made by subsections (a), (b), and (d) [amending this section, sections 55, 72, 172, 219, 402, 403, 406, 407, 408, 412, 414, 415, 457, 2039, 2517, 3121, 3306, 3401, 4972, 4973, 4975, 6047, 6058, 6104, 6652, 7207, 7476, and 7701 of this title, section 3107 of Title 31, Money and Finance, and section 409 of Title 42, The Public Health and Welfare, and repealing sections 405 and 409 of this title] shall apply to obligations issued after December 31, 1983.”

## EFFECTIVE DATE OF 1983 AMENDMENT

Par. (9) as in effect before date of repeal by Pub. L. 97-354 to remain in effect for years beginning before Jan. 1, 1984, see section 6(b)(1) of Pub. L. 97-354, set out as an Effective Date note under section 3761 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Section 103(d) of Pub. L. 97-34 provided that: "The amendments made by this section [enacting section 219 of this title and amending this section and sections 85 and 105 of this title] shall apply to taxable years beginning after December 31, 1981."

Amendment by sections 112(b)(2) and 311(h)(1) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see sections 115 and 311(i)(1) of Pub. L. 97-34, set out as notes under sections 911 and 219, respectively, of this title.

## EFFECTIVE DATE OF 1980 AMENDMENTS

Section 3(b) of Pub. L. 96-608 provided that: "The amendment made by subsection (a) [amending this section] shall apply to repayments made in taxable years beginning after the date of the enactment of this Act [Dec. 28, 1980]."

Amendment by Pub. L. 96-451 applicable with respect to additions to capital account made after Dec. 31, 1979, see section 301(d) of Pub. L. 96-451, set out as an Effective Date note under section 194 of this title.

## EFFECTIVE DATE OF 1978 AMENDMENT; ELECTION OF PRIOR LAW

Amendment by Pub. L. 95-615 applicable to taxable years beginning after Dec. 31, 1977, with provision for election of prior law, see section 209 of Pub. L. 95-615, set out as a note under section 911 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Section 502(c) of Pub. L. 94-455 provided that: "The amendments made by this section [amending this section and section 3402 of this title] shall apply to taxable years beginning after December 31, 1976."

Section 1501(d) of Pub. L. 94-455 provided that: "The amendments made by this section [enacting section 220 of this title, amending this section and sections 219, 408, 409, 3401, 4973, and 6047 of this title, and renumbering former section 220 as 221 of this title], other than the amendment made by subsection (b)(3), shall apply to taxable years beginning after December 31, 1976. The amendment made by subsection (b)(3) [amending section 415 of this title] shall apply to years beginning after December 31, 1976."

Amendment by section 1901(a)(8), (9) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

## EFFECTIVE DATE OF 1974 AMENDMENTS

Section 6(b) of Pub. L. 93-483 provided that: "The amendment made by this section [amending this section] applies to taxable years beginning after December 31, 1972."

Amendment by section 2002(a)(2) of Pub. L. 93-406 applicable to taxable years beginning after Dec. 31, 1974, see section 2002(i)(1) of Pub. L. 93-406, set out as an Effective Date note under section 219 of this title.

Amendment by section 2005(c)(9) of Pub. L. 93-406 applicable only with respect to distributions or payments made after Dec. 31, 1973, in taxable years beginning after Dec. 31, 1973, see section 2005(d) of Pub. L. 93-406, set out as a note under section 402 of this title.

## EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to taxable years of electing small business corporations beginning after Dec. 31, 1970, see section 531(d) of Pub. L. 91-172, set out as an Effective Date note under section 1379 of this title.

## EFFECTIVE DATE OF 1964 AMENDMENT

Section 213(d) of Pub. L. 88-272 provided that: "The amendments made by subsections (a) [enacting section 217 and redesignating former section 217 as 218] and (b) [amending this section] shall apply to expenses incurred after December 31, 1963, in taxable years ending after such date. The amendment made by subsection (c) [amending section 3401 of this title] shall apply with respect to remuneration paid after the seventh day following the date of the enactment of this Act [Feb. 26, 1964]."

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-792 applicable to taxable years beginning after Dec. 31, 1962, see section 8 of Pub. L. 87-792, set out as a note under section 22 of this title.

## SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

## COMMUTING EXPENSES

Pub. L. 95-427, §2, Oct. 7, 1978, 92 Stat. 996, as amended by Pub. L. 96-167, §2, Dec. 29, 1979, 93 Stat. 1275, provided that with respect to transportation costs paid or incurred after December 31, 1976, and on or before May 31, 1981, the application of sections 62, 162, and 262 and of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 [now 1986] to transportation expenses in traveling between a taxpayer's residence and place of work be determined without regard to Revenue Ruling 76-453 or any other regulation, ruling, or decision reaching the same or similar result, and with full regard to the rules in effect before that Revenue Ruling.

Pub. L. 95-615, §2, Nov. 8, 1978, 92 Stat. 3097, provided that with respect to transportation costs paid or incurred after Dec. 31, 1976, and before Apr. 30, 1978, the application of sections 62, 162, and 262 and chapters 21, 23, and 24 of the Internal Revenue Code of 1954 [now 1986] to transportation expenses in traveling between a taxpayer's residence and place of work be determined

without regard to Revenue Ruling 76-453 or any other regulation, ruling or decision reaching the same or similar result, and with full regard to the rules in effect before that Revenue Ruling, and ceased to have effect on the day after Nov. 8, 1978 pursuant to section 210(a) of that Act.

### § 63. Taxable income defined

#### (a) In general

Except as provided in subsection (b), for purposes of this subtitle, the term “taxable income” means gross income minus the deductions allowed by this chapter (other than the standard deduction).

#### (b) Individuals who do not itemize their deductions

In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term “taxable income” means adjusted gross income, minus—

- (1) the standard deduction, and
- (2) the deduction for personal exemptions provided in section 151.

#### (c) Standard deduction

For purposes of this subtitle—

##### (1) In general

Except as otherwise provided in this subsection, the term “standard deduction” means the sum of—

- (A) the basic standard deduction,
- (B) the additional standard deduction,
- (C) in the case of any taxable year beginning in 2008 or 2009, the real property tax deduction,
- (D) the disaster loss deduction, and
- (E) the motor vehicle sales tax deduction.

##### (2) Basic standard deduction

For purposes of paragraph (1), the basic standard deduction is—

- (A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—
  - (i) a joint return, or
  - (ii) a surviving spouse (as defined in section 2(a)),
- (B) \$4,400 in the case of a head of household (as defined in section 2(b)), or
- (C) \$3,000 in any other case.

##### (3) Additional standard deduction for aged and blind

For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

##### (4) Adjustments for inflation

In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (2)(B), (2)(C), or (5) or subsection (f) shall be increased by an amount equal to—

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting for “calendar year 1992” in subparagraph (B) thereof—

- (i) “calendar year 1987” in the case of the dollar amounts contained in paragraph (2)(B), (2)(C), or (5)(A) or subsection (f), and

- (ii) “calendar year 1997” in the case of the dollar amount contained in paragraph (5)(B).

#### (5) Limitation on basic standard deduction in the case of certain dependents

In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual’s taxable year begins, the basic standard deduction applicable to such individual for such individual’s taxable year shall not exceed the greater of—

- (A) \$500, or
- (B) the sum of \$250 and such individual’s earned income.

#### (6) Certain individuals, etc., not eligible for standard deduction

In the case of—

- (A) a married individual filing a separate return where either spouse itemizes deductions,
- (B) a nonresident alien individual,
- (C) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or
- (D) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

#### (7) Real property tax deduction

For purposes of paragraph (1), the real property tax deduction is the lesser of—

- (A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or
- (B) \$500 (\$1,000 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.

#### (8) Disaster loss deduction

For the purposes of paragraph (1), the term “disaster loss deduction” means the net disaster loss (as defined in section 165(h)(3)(B)).

#### (9) Motor vehicle sales tax deduction

For purposes of paragraph (1), the term “motor vehicle sales tax deduction” means the amount allowable as a deduction under section 164(a)(6). Such term shall not include any amount taken into account under section 62(a).

#### (d) Itemized deductions

For purposes of this subtitle, the term “itemized deductions” means the deductions allowable under this chapter other than—

- (1) the deductions allowable in arriving at adjusted gross income, and
- (2) the deduction for personal exemptions provided by section 151.

#### (e) Election to itemize

##### (1) In general

Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the